

Vol. XI
TRANSCRIPT OF RECORD

(Pages 3975 to 4116)

Supreme Court of the United States

OCTOBER TERM, 1951

No. 428

**PENNSYLVANIA WATER AND POWER COMPANY
AND SUSQUEHANNA TRANSMISSION COMPANY
OF MARYLAND, PETITIONERS,**

vs.

FEDERAL POWER COMMISSION ET AL.

No. 429

**PENNSYLVANIA PUBLIC UTILITY COMMISSION,
PETITIONER,**

vs.

FEDERAL POWER COMMISSION

**ON WRITS OF CERTIORARI TO THE UNITED STATES COURT OF
APPEALS FOR THE DISTRICT OF COLUMBIA CIRCUIT**

PETITIONS FOR CERTIORARI FILED NOVEMBER 16, 1951

CERTIORARI GRANTED FEBRUARY 4, 1952

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TABLE VI

APPLICATION OF UNIT COSTS TO CUSTOMERS' MEASURED LOADS
 ASSEMBLY OF CAPACITY, ENERGY AND SPECIAL FACILITY COSTS FOR EACH CUSTOMER
 COMPARISON OF TOTAL COST OF SERVICE WITH REVENUES COLLECTED

	Noncoincident Maximum Demands	Energy Sales in Year of Average River Flow	Capacity Costs	Energy Costs	Special Facilities Cost	Energy Supply from Baltimore Charge to Customers at 4 Mills	Credit to Baltimore	Total Cost
	1	2	3	4	5	6	7	8
P.P. & L. Co.	66,000	\$45,329,221	\$1,264,604	\$ 438,239	\$ 10,973	\$ 175,175	\$	\$ 1,888,
P.E. Co.	24,500	152,292,000	469,436	193,266	58,689	77,254		798,
Ed. Lt. & Pr. Co.	9,560	44,863,535	183,176	56,934	72,668	22,758		335,
R.R. Co. in Pa.	33,900	194,082,000	649,546	246,298	107,201	98,452		1,101,
Baltimore	10,820	376,917,000	207,318	478,325	620,563	127,629	(501,268)	932,
Total	144,780	1,113,483,756	\$2,774,080	\$1,413,062	\$ 870,094	\$ 501,268	\$ (501,268)	\$ 5,057,

RED LOADS
\$ FOR EACH CUSTOMER
IS COLLECTED

from Baltimore Credit to Baltimore 7	Total Cost 8	Total Revenue		Revenue in Excess of Allocated Costs	
		Amount	Percent	Amount	%
		9	10	11	12
\$	\$ 1,888,991	\$2,176,256	28.0	\$ 287,265	10.6
	798,645	986,360	12.7	187,715	6.9
	335,536	368,904	4.7	33,368	1.2
	1,101,497	1,455,514	18.7	354,017	13.0
(501,268)	932,567	2,790,466	35.9	1,857,899	68.3
\$ (501,268)	\$ 5,057,236	\$7,777,500	100.0	\$2,720,264	100.0

TABLE VI

APPLICATION OF UNIT COSTS TO CUSTOMERS' MEASURED LOADS
 ASSEMBLY OF CAPACITY, ENERGY AND SPECIAL FACILITY COSTS FOR EACH CUSTOMER
 COMPARISON OF TOTAL COST OF SERVICE WITH REVENUES COLLECTED

	Noncoincident Maximum Demands	Energy Sales in Year of Average River Flow	Capacity Costs	Energy Costs	Special Facilities Cost	Energy Supply from Baltimore Charge to Customers at 4 Mills	Credit to Baltimore	Total Cost
	1	2	3	4	5	6	7	8
P.P. & L. Co.	66,000	345,329,221	\$1,264,604	\$ 438,239	\$ 10,973	\$ 155,460	\$	\$ 1,869,9
P.E. Co.	24,500	152,292,000	469,436	193,266	58,689	68,559		789,9
Ed. Lt. & Pr. Co.	9,560	44,863,535	183,176	56,934	72,668	20,197		332,9
R.R. Co. in Pa.	33,900	194,082,000	649,546	246,298	107,201	87,372		1,090,9
Baltimore	10,820	376,917,000	207,318	478,325	620,563	169,680	(501,268)	974,9
Total	144,780	1,113,483,756	\$2,774,080	\$1,413,062	\$ 870,094	\$ 501,268	\$ (501,268)	\$ 5,057,9

RS' MEASURED LOADS
 LITY COSTS FOR EACH CUSTOMER
 TH REVENUES COLLECTED

Energy Supply from Baltimore		Total Cost	Total Revenue		Revenue in Excess of Allocated Costs	
Charge to Customers at Mills	Credit to Baltimore		Amount	Percent	Amount	%
6	7	8	9	10	11	12
155,460	\$	\$ 1,869,276	\$2,176,256	28.0	\$ 306,980	11.3
68,559		789,950	986,360	12.7	196,410	7.2
20,197		332,975	368,904	4.7	35,929	1.3
87,372		1,090,417	1,455,514	18.7	365,097	13.4
169,680	(501,268)	974,618	2,790,466	35.9	1,815,848	66.8
501,268	\$ (501,268)	\$ 5,057,236	\$7,777,500	100.0	\$2,720,264	100.0

Exhibit No. 294

3977

EXHIBIT NO. 294.

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[23864]

PENNSYLVANIA WATER & POWER CO.

**Thirty-Sixth
Annual Report**

1945

PENNSYLVANIA WATER & POWER COMPANY

and Susquehanna Transmission Company of Maryland, a wholly-owned subsidiary

Comparative Consolidated Statement of Income

	For Year Ended December 31	
	1945	1944
Operating Revenues (Note A).....	\$7,051,676.04	\$7,148,668.66
Operating Revenue Deductions:		
Maintenance.....	\$ 359,837.84	\$ 346,364.78
Power Purchased from Safe Harbor Water Power Corporation.....	1,231,772.47	1,214,553.53
Interchange Power—Net.....	(812,133.77)	(628,867.16)
Other Operating Expenses.....	1,568,633.78	1,453,211.83
Depreciation (Note B).....	574,245.15	572,364.86
Federal Income and Excess Profits Taxes.....	1,211,693.82	1,243,700.49
Other Taxes.....	317,248.94	334,125.59
Total Operating Revenue Deductions.....	\$4,451,298.23	\$4,535,453.92
Operating Income.....	\$2,600,377.81	\$2,613,214.74
Other Income:		
Dividends on Stock of Safe Harbor Water Power Corporation (Note D).....	\$ 280,000.00	\$ 280,000.00
Other Dividends, Interest and Miscellaneous.....	162,166.91	144,253.13
Total Other Income.....	\$ 442,166.91	\$ 424,253.13
Gross Income.....	\$3,042,544.72	\$3,037,467.87
Income Deductions:		
Interest on Long-Term Debt.....	\$ 680,449.37	\$ 687,057.08
Amortization of Debt Discount, Premium and Expense—Net (Note C).....	32,776.02	163,501.84
Interest Charged to Construction—Credit.....	(280.29)	(140.30)
Miscellaneous Income Deductions.....	42,048.35	27,979.28
Total Income Deductions.....	\$ 754,993.45	\$ 878,397.90
Net Income (Note A).....	\$2,287,551.27	\$2,159,069.97

() Indicates credit.

Consolidated Statement of Earned Surplus

Earned Surplus—December 31, 1944.....	\$6,146,295.18
Additions:	
Net Income for 1945 (as above).....	2,287,551.27
	\$8,433,846.45
Deductions:	
Dividends on \$5 Cumulative Preferred Stock.....	\$ 107,465.00
Dividends on Common Stock—\$4.00 per share.....	1,719,392.00
Payment for increase in past service benefits under revised retirement annuity plan.....	300,000.00
Adjustment of prior years' revenues, taxes and expenses, and other items—net.....	8,660.30
	2,135,517.30
Earned Surplus—December 31, 1945 (Note A).....	\$6,298,329.15

See Notes on Pages 18 and 19.

PENNSYLVANIA WATER & POWER & POWER COMPANY

and Susquehanna Transmission Company of Maryland, a wholly-owned subsidiary of the Company of Maryland, a wholly-owned subsidiary

Consolidated Balance Sheet — December 31, 1945 Balance Sheet — December 31, 1945

ASSETS AND OTHER DEBITS

CAPITAL ASSETS:		
Plant, Property and Power Development (Note A).....	\$38,823,789.95	
INVESTMENTS:		
Safe Harbor Water Power Corporation Capital Stock, at cost (See explanation under Contingent Liabilities).....	\$ 3,000,000.00	
Other Stocks, at cost or less (Quoted market value at December 31, 1945, was approximately \$2,549,000 of which \$424,000 is applicable to securities pledged under the Company's mortgage).....	1,865,842.38	
United States Savings Bonds, Series G, at cost.....	400,000.00	5,265,842.38
CURRENT AND ACCRUED ASSETS:		
Cash in Banks and on Hand.....	\$ 1,707,462.31	
United States Treasury Notes, at cost.....	4,000,000.00	
Accounts Receivable.....	627,266.98	
Interest and Dividends Receivable.....	157,963.51	
Special Deposits for:		
Payment of Dividends—Contra.....	456,714.25	
Taxes and Other Purposes.....	93,833.06	
Sinking Fund (Cash deposited with Trustee for redemption of bonds).....	110,666.66	
Materials and Supplies, at average cost or less.....	393,553.28	
Prepayments.....	61,668.14	7,609,128.19
DEFERRED DEBITS		
		18,899.17
Total Assets and Other Debits.....		<u>\$51,717,659.69</u>

Approved,
JAS. L. RINTOUL,
Executive Vice-President.

CAPITAL

Common Stock (Authorized 540,000 shares—Outstanding 429,848 shares).....	\$38,823,789.95	
\$5 Cumulative Preferred Stock (Without Par Value) (Authorized 100,000 shares—Outstanding 21,493 shares. Redeemable at \$110 per share plus accrued dividends; entitled to \$100 per share plus accrued dividends in any liquidation).....		
LONG-TERM DEBT:		
Refunding Mortgage and Collateral Trust Bonds (Exclusive of amounts estimated to be retired or provided for through sinking fund within one year):		
3 1/4% Series due 1964.....		
3 1/4% Series due 1970.....	5,265,842.38	

CURRENT

Accounts Payable.....		
Dividends Declared (Payable January 2, 1946)—Contra.....		
Long-Term Debt estimated to be retired or provided for through sinking fund within one year.....		
Interest Accrued on Long-Term Debt.....		
Federal Income and Excess Profits Taxes Accrued.....		
Other Taxes Accrued.....		
Other Current and Accrued Liabilities.....		

DEFERRED

Unamortized Premium on Debt (Note C).....		
RESERVES:		
Reserve for Depreciation.....	\$ 8,976,358.33	
Reserve for Retirement Annuities.....	78,244.98	9,054,603.31
EARNED SURPLUS (Note A)		
		6,298,329.15
Total Liabilities and Other Credits.....		<u>\$51,717,659.69</u>

Contingent Liabilities:

The Company, which has an investment of \$3,000,000 in 100,000 shares of Capital Stock of Safe Harbor Water Power Corporation, representing one-half of the Voting Stock (or one-third of the outstanding Capital Stock) has agreed to indemnify Consolidated Gas Electric Light and Power Company of Baltimore to the extent of one-third of any liability which Consolidated Company may sustain by reason of its unconditional guaranty of principal of and interest on \$19,379,000 First Mortgage Sinking Fund Gold Bonds, 4 1/4% Series due 1979 of Safe Harbor Water Power Corporation, which guaranty is endorsed thereon.

LIABILITIES AND OTHER CREDITS

CAPITAL STOCK:

Common Stock (Without Par Value).....	\$10,868,312.50	
\$5 Cumulative Preferred Stock (Without Par Value).....	2,130,895.50	
		\$12,999,208.00

LONG-TERM DEBT:

Refunding Mortgage and Collateral Trust Bonds (Exclusive of amounts estimated to be retired or provided for through sinking fund within one year):		
3 1/4% Series due 1964.....	\$10,280,000.00	
3 1/4% Series due 1970.....	10,245,000.00	20,525,000.00

CURRENT AND ACCRUED LIABILITIES:

Accounts Payable.....	\$ 203,793.20	
Dividends Declared (Payable January 2, 1946)—Contra.....	456,714.25	
Long-Term Debt estimated to be retired or provided for through sinking fund within one year.....	308,000.00	
Interest Accrued on Long-Term Debt.....	169,721.77	
Federal Income and Excess Profits Taxes Accrued.....	1,211,469.32	
Other Taxes Accrued.....	228,204.84	
Other Current and Accrued Liabilities.....	18,652.06	2,596,555.44

DEFERRED CREDITS:

Unamortized Premium on Debt (Note C).....		243,963.79
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RESERVES:

Reserve for Depreciation.....	\$ 8,976,358.33	
Reserve for Retirement Annuities.....	78,244.98	9,054,603.31
EARNED SURPLUS (Note A)		
		6,298,329.15
Total Liabilities and Other Credits.....		<u>\$51,717,659.69</u>

Contingent Liabilities:

The Company, which has an investment of \$3,000,000 in 100,000 shares of Capital Stock of Safe Harbor Water Power Corporation, representing one-half of the Voting Stock (or one-third of the outstanding Capital Stock) has agreed to indemnify Consolidated Gas Electric Light and Power Company of Baltimore to the extent of one-third of any liability which Consolidated Company may sustain by reason of its unconditional guaranty of principal of and interest on \$19,379,000 First Mortgage Sinking Fund Gold Bonds, 4 1/4% Series due 1979 of Safe Harbor Water Power Corporation, which guaranty is endorsed thereon.

NOTES

TO FOREGOING FINANCIAL STATEMENTS

Note A:

At December 31, 1945, the Company and its subsidiary were subject to regulatory action in connection with their rates, the licensing of the Holtwood hydroelectric and other properties and the "original cost" thereof, which matters, if settled on bases unfavorable to the companies, would have an adverse effect on their property, surplus and other accounts and on future earnings. Information regarding these matters, which in some respects are inter-related, is set forth below:

Rate Investigations

On September 1, 1944, the Federal Power Commission issued an order instituting an investigation to determine whether, in connection with any transmission or sale of electrical energy subject to the jurisdiction of that Commission under the Federal Power Act, any rates, charges or classifications demanded, observed, charged or collected by the Company, or any rules, regulations, practices, or contracts affecting such rates, charges or classifications are unjust, unreasonable, unduly discriminatory or preferential; and if, after hearing, it should be found that any of such rates, charges, classifications, rules, regulations, practices or contracts are unjust, unreasonable, unduly discriminatory or preferential, to determine and fix just and reasonable rates, charges, classifications, rules, regulations, practices or contracts to be thereafter observed and in force. Under date of October 3, 1944, the Federal Power Commission enlarged its order of September 1, 1944, to the Company by issuing a supplemental order to include in its investigations the Susquehanna Transmission Company of Maryland, a wholly-owned subsidiary of the Company. The Commission has set March 25, 1946 as the date for commencement of a hearing in this matter.

Under date of December 5, 1944, the Pennsylvania Public Utility Commission issued an order instituting an inquiry and investigation upon its own motion under the provisions of the Pennsylvania Public Utility Law for the purpose of determining the fairness, reasonableness and justness of the rates and charges of the Company. The order states that the inquiry and investigation shall include consideration of the imposition of temporary rates under the provision of Section 310 of the Public Utility Law.

License Proceedings

In compliance with the Federal Power Commission's order of November 3, 1939, from which the Company had unsuccessfully appealed to the Courts, there was filed, on May 18, 1942, an application for a license under the Federal Power Act to maintain and operate its Holtwood hydroelectric project. Although formal tender of a license has never been made by the Commission, the Commission, under date of November 23, 1943, issued an "Order Authorizing Issuance of License (Major)". Pursuant to the Company's Petition for Rehearing on this order, the Commission, on January 21, 1944, issued another order staying its order of November 23, 1943, and requiring the Company to submit in writing to the Commission certain information. This information was furnished to the Commission under date of February 10, 1944. Since that date there have been no further developments in this matter.

Original Cost

The work of reclassifying the property of the Company and its subsidiary, Susquehanna Transmission Company of Maryland, according to the system of accounts prescribed by the Federal Power Commission, the Pennsylvania Public Utility Commission and the Public Service Commission of Maryland, and of making studies of the original cost of the properties when

first devoted to the public service, was completed and reports were filed with the respective commissions on May 15, 1940.

This system of accounts provides for the use of adjustment accounts to show the difference between such original cost and the amounts shown by the books of account of the "accounting utility", and amounts recorded in such adjustment accounts are to be disposed of as these commissions may approve or direct. The completed reports of the Company and its subsidiary provide for the transfer of \$2,106,765.32 to the Electric Plant Adjustments accounts. Pending orders from the commissions no entries have been recorded on the companies' books to give effect to such original cost reclassifications.

Note B:

The amounts charged to income for depreciation are the same as the deductions for depreciation claimed, or to be claimed, for income tax purposes.

Note C:

Amortization of Debt Discount, Premium and Expense-Net, includes for the year 1945 a charge of \$43,610.10, and for the year 1944, a charge of \$174,440.36 for amortization of the debt discount and expense and the redemption premium applicable to the Series B, 4½% Bonds due 1968, which were redeemed as of March 1, 1940, less credits of \$10,834.08 and \$10,938.52 for 1945 and 1944, respectively, representing amortization on a straight-line basis of the net premium applicable to the presently outstanding 3¼% bonds.

There was concluded on March 31, 1945, the 61-month period of amortization of debt discount and expense and redemption premium aggregating \$886,738.51 and applicable to the Series B, 4½% Bonds due 1968, which were redeemed as of March 1, 1940.

Note D:

The Federal Power Commission issued an order dated September 1, 1944 instituting an investigation of the rates of the Safe Harbor Water Power Corporation. This order was similar to that received by the Company, bearing the same date and referred to in Note A. Hearings in this matter were concluded March 16, 1945, and briefs have been filed by the Corporation and the Commission, but no decision has been rendered by the Commission. As stated in the accompanying balance sheet, the Company owns one-third of the outstanding stock of that Corporation.

DETERMINATION OF COST OF SERVICE
TO
CONSOLIDATED GAS ELECTRIC LIGHT AND POWER COMPANY
OF BALTIMORE

Purpose and Scope of Exhibit

This exhibit sets forth the results of studies made to determine the costs incurred by Pennsylvania Water & Power Company and Susquehanna Transmission Company of Maryland, hereinafter jointly referred to as Penn Water, in serving the Consolidated Gas Electric Light and Power Company of Baltimore, hereinafter referred to as Baltimore.

As used herein cost is defined to include all expenses of operation and maintenance, including the cost of purchased power and energy, depreciation, taxes and return. The beginning point of the studies made is Penn Water's total investment, in plant, rate base, and costs. The problem is to determine what portion of the total investment, rate base, and costs are properly assignable to the services rendered by Penn Water to Baltimore.

For purposes of this study two separate and distinct determinations have been made. The first study starts with Penn Water's cost of service for 1944 as set forth in Exhibit 64 introduced by Mr. George Davis in these proceedings. The second study starts with Penn Water's cost of service for 1946 as furnished by Penn Water. Neither the 1944 or 1946 total costs used herein have been verified or investigated as part of this study. Furthermore, the use of the principles or methods followed in arriving at the rate base, the rate of return and depreciation involved in each of the total cost determinations is not to be taken as an indorsement of their reasonableness. As stated at the outset, the purpose of the studies made was to find and apply a method of determining what portion

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of these costs are properly assignable to the services rendered by Penn Water to Baltimore. The same method and principles of allocation found to be reasonable have been applied to each set of investment and cost figures.

This study of costs includes no analysis or studies of the revenues of Penn Water.

For convenience in reference, the first study based on Exhibit 64 is herein referred to as the 1944 Cost Study, and the second study, based on Company 1946 costs as the 1946 Cost Study.

Source of Data

The basic data required for this exhibit consists of the two cost studies, 1944 and 1946, already mentioned and discussed. Where further detail was necessary regarding any of these basic figures, it was obtained either from the record in the case or from the records of the Company.

The determination of what would be a reasonable and feasible method of assigning property and costs is based on a study of the services rendered, the operations of the system, and the costs involved. This study included a review of a number of exhibits and some of the transcript of the proceedings in the case, discussions with officers and employees of Penn Water, inspection of the plant and information requested from the records of the Company.

Summary of Results

Based on the total Penn Water costs of service of \$5,057,235 for 1944, as taken from Exhibit 64, it has been determined that the portion properly allocable to the services rendered to Baltimore for that

-3-

year is no less than \$1,855,895.

Based on the total Penn Water costs of service of \$7,214,016 for 1946, as supplied by Penn Water, it has been determined that the portion properly allocable to the services rendered to Baltimore for that year is no less than \$2,984,826.

A summary of the costs and their allocation to Baltimore is contained in the tables forming a part of Schedule A, for the 1944 Cost Study, and of Schedule B for the 1946 Cost Study. Both of these schedules are attached. An explanation of each of the allocations shown on these tables is set forth in the notes following each Schedule. In addition to these explanations, there follows a brief discussion of the problems and considerations involved respecting some of the major items of plant.

Discussion

This study is concerned with the cost of rendering service to a particular customer - one of a number of customers served by Penn Water. The problem then is that of determining the services actually rendered and the costs relating thereto.

Penn Water is at the hub of a large power supply pool. Physically, this pool is formed by the interconnection and co-ordinated operation of a number of large electric utility systems. Contractually, the pool is made possible by a number of agreements, some joint with one or more of the other suppliers, with varying degrees of responsibilities and obligations on the part of the parties, and some singly with individual customers. Thus, the types of service rendered are many and varied in character. Interconnected electric utility system operations are, of course, not novel. In this case, however, such operations are the sum